

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1700V

Filed: June 30, 2017

UNPUBLISHED

THOMAS CASEY,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Causation-In-Fact; Influenza (Flu)
Vaccine; Shoulder Injury Related to
Vaccine Administration (SIRVA)

Danielle Strait, Maglio Christopher & Toale, PA, Seattle, WA, for petitioner.

Lynn Elizabeth Ricciardella, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On December 28, 2016, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that he received an influenza (“flu”) vaccination on November 21, 2015, and thereafter suffered a shoulder injury. Petition at 1,2. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On June 29, 2017, respondent filed his Rule 4(c) report in which he concedes that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, respondent “has determined that petitioner’s alleged injury is

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

consistent with a shoulder injury related to vaccine administration (“SIRVA”) *Id.* at 1. Respondent further agrees that “a preponderance of evidence establishes that the injury to petitioner’s right shoulder was caused by the administration of the November 21, 2015 flu vaccine, and that petitioner’s injury is not due to factors unrelated to the administration of the flu vaccine”. *Id.* at 3. Respondent also agrees that the statutory six month sequela requirement has been satisfied. *Id.* at 4.

In view of respondent’s position and the evidence of record, the undersigned finds that petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master